

# City of Milpitas



## City Council

Jose Esteves, Mayor  
Armando Gomez, Vice Mayor  
Bob Livengood, Councilmember  
Althea Polanski, Councilmember  
Debbie Giordano, Councilmember

## City Council Agenda

April 5, 2005  
City Hall  
455 E. Calaveras Blvd.  
Milpitas, CA 95035  
7:00 P.M. (Public Business)

### GENERAL ORDER OF BUSINESS

- |                        |                                  |                          |
|------------------------|----------------------------------|--------------------------|
| • Call to Order        | • Announcements                  | • New Business           |
| • Closed Session       | • Approval of Agenda             | • Ordinances             |
| • Salute to the Flag   | • Consent Calendar               | • Resolutions            |
| • Approval of Minutes  | • Public Hearings                | • Bids and Contracts     |
| • Schedule of Meetings | • Redevelopment Agency Meeting   | • Claims and Demands     |
| • Presentations        | • Reports of Officers and Boards | • Written Communications |
| • Citizens Forum       | • Unfinished Business            | • Adjournment            |

### CONSENT CALENDAR

Items on the consent calendar are identified by an asterisk in front of the item number. These are considered to be routine items and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember, staff member, or citizen so requests, in which event the item may be removed from the consent calendar by a Councilmember and considered in its normal sequence on the agenda.

### CITIZENS FORUM

Members of the audience are invited to address the Council under "Citizens Forum" on any subject not scheduled on this agenda. Please come to the podium, state your name and city of residence for the Clerk's record, and limit remarks to under two minutes. Be sure to complete a speaker's card and give it to the City Clerk before leaving. Please note that the provisions of California Government Code Section 54954.2(b) prohibit the City Council from taking any immediate action on an item which does not appear on the agenda, unless it meets stringent requirements. The City Council may instruct the City Manager to agendize the matter for a future meeting.

### ADDRESSING THE CITY COUNCIL

Public comment is allowed on any item on the agenda during consideration of the matter and prior to action by the Council. Please come to the podium, state your name, and City of residence for the City Clerk's record. When addressing the City Council, please try to keep your presentations brief and not repeat what other speakers may have already said. Your cooperation will be greatly appreciated. For public hearings, speakers may come forward once the hearing has been opened by the Mayor. Once a public hearing is closed, no more testimony will be allowed unless requested by the Council.

### REDEVELOPMENT AGENCY

The City Council serves as members of the Milpitas Redevelopment Agency. When there is business for the Redevelopment Agency to consider, the City Council will recess and convene as the Redevelopment Agency. In some instances, the Redevelopment Agency will convene jointly with the City Council.

### AGENDA INFORMATION

Copies of the agenda and supplemental documents relating to specific agenda items are available for review (there may be a charge for copies) at City Hall on Friday preceding a regularly scheduled City Council meeting (1st and 3rd Tuesdays). A copy of the agenda and supplemental documents are also available for review at the Milpitas Library. **A recorded agenda or minutes on standard cassette or printed in large type will be provided upon request by the Clerk's Office for the visually impaired.** Agenda information is also available by calling the "Agenda Hotline" at 586-3010. The regular meetings of the Milpitas City Council are broadcast live on the local cable television Channel 15, on radio at 1620 AM, and webcast at [ci.milpitas.ca.gov](http://ci.milpitas.ca.gov). Replays may be seen on Channel 15 at noon and 8:00 p.m. the day following the meeting. Additional information may be obtained from the City Clerk, City of Milpitas, 455 E. Calaveras Blvd., Milpitas, CA 95035, (408) 586-3001.

Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure.

***Your interest and participation in the conduct of your City's business is encouraged and appreciated.***

*In compliance with the Americans with Disabilities Act, individuals requiring accommodation for this meeting should notify the City Clerk 48 hours prior to the meeting at (408) 586-3001, TDD (408) 586-3013.  
Hearing assistance devices are available for use in the Council Chamber during the meeting.*

**CITY OF MILPITAS**  
**Summary of Contents**  
**Milpitas City Council Meeting**  
**April 5, 2005**  
**6:00 p.m. Closed Session**  
**7:00 p.m. Public Business**  
**455 E. Calaveras Boulevard**

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**I. ROLL CALL (6:00 p.m.)**

**II. ADJOURN TO CLOSED SESSION**

- 1. Conference with Labor Negotiator**  
(Pursuant to Government Code Section 54957.6)  
Agency designated representatives: Art Hardinger and Eddie Kreisberg  
Employee Organizations: Protech, MEA, MSA, LIUNA, MPOA, IAFF, and  
Unrepresented employees
- 2. Conference with Legal Counsel – Anticipated Litigation**  
Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9  
Number of Cases: (1)

**III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present**

**IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**

**V. APPROVAL OF MINUTES (March 1 2005, and March 15, 2005)**

**VI. SCHEDULE OF MEETINGS**

**VII. PRESENTATIONS**

**Proclamations:**

- Month of the Young Child & National Child Abuse Prevention Month, April 2005
- Presentation of the Children's Welfare League of America Children's Memorial Flag
- Fair Housing Month
- Recognition of Jim Burns' Contributions to Milpitas Older Adult Population
- Dispatching Week April 10-16, 2005

**VIII. CITIZENS FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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**IX. ANNOUNCEMENTS**

**X. ANNOUNCEMENT OF CONFLICT OF INTEREST**

**XI. MOMENTS OF REFLECTION**

**XII. APPROVAL OF AGENDA**

**XIII. CONSENT CALENDAR (Items with Asterisks)**

**XIV. PUBLIC HEARINGS**

- 1. Adopt Resolution Approving a Local Hazard Mitigation Plan (Staff Contact: Americo Silvi, 586-2810)**
- 2. Introduce Ordinance No. 124.27 Amending Title XI Chapter 30 (Signs), Amending Title XI-10 (Planning, Zoning and Annexation) and Amending Chapter V-500 (Neighborhood Beautification) of the Municipal Code to Enhance the Code Enforcement Program (P-ZT2004-2) (Staff Contact: Tambri Heyden, 586-3280)**
- 3. Approve Conceptual Transit Subarea Land Use Plan(s) For The Approximately 400 Acre Transit Subarea Which Includes The Great Mall Of The Bay Area, And Many Parcels Along Or Near The Vicinity Of McCandless Drive, Houret Drive, Centerpoint Drive, Sango Court, Tarob Court, Gladding Court, Capitol Avenue, Montague Expressway And Piper Drive. (Staff Contact: D. Carrington, 586-3275)**

**XV UNFINISHED BUSINESS**

- 4. Approve Concept Design for the Interpretive Historical Display for the O'Toole Elms (Staff Contact: Troy Fujimoto, 586-3287) (continued from March 15, 2005)**
- 5. Adopt Ordinance No. 262.1 (1) repealing Chapter 310 of the Municipal Code; (2) repealing Chapter 320 of the Municipal Code; and (3) introducing Ordinance 262.1, Adding Chapter 310 to Title I of the Milpitas Municipal Code Establishing Regulations Governing Access to Public Meetings and Public Records, Designating City Employee Salary Information by Title as a Public Record, Regulating Lobbyists' Activities and Solicitation of Donations by Public Officials and Establishing an Open Government Commission ("Milpitas Open Government Ordinance") (Staff Contact: Steve Mattas, 586-3040) (continued from March 15, 2005)**
- \* 6. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**

**XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1. Call to Order by the Mayor**

**RA2. Roll Call**

**RA3. Approval of Minutes (March 1 and March 15, 2005)**

**RA4. Approval of Agenda and Consent Calendar**

**RA5. Approve Allocation of Redevelopment Agency Funds to the Housing Trust Fund of Santa Clara County (Staff Contact: Felix Reliford, 586-3071)**

**RA6. Receive Progress Report on Library Design (Project No. 8162) (Staff Contact: Mark Rogge 586-3403)**

**RA7. Authorize the City Manager to Execute a Consulting Services Agreement with Chong Partners Architects; and Approve a New CIP Project and Budget Appropriation for Midtown West Parking Garage (Project No. 8161 and No. 8170) (Staff Contact: Mark Rogge, 586-3403)**

**RA8. Agency Adjournment**

**XVII. REPORTS OF OFFICERS AND BOARDS**

**City Council**

- 7. Request the Santa Clara County Board of Supervisors Designate Regional Medical Center as a Third Trauma Center in the County: Councilmember Livengood**

**Sister Cities Commission**

- 8. Approve Recommendation To Extend Sister City Relationship: Dagupan City, Philippines (Staff Contact: Leslie Stobbe, 586-3352)**
- \* 9. Approve Budget Request From The Sister Cities Commission For Materials Supporting 2005 Huizhou City Student & Cultural Exchange Visit (Staff Contact: Leslie Stobbe, 586-3352)**

**XVIII. NEW BUSINESS**

- 10. Approval of Conduct Public Outreach for Individuals Interested in Serving on the Open Government Commission (Staff Contact: Richard Pio Roda, 586-3040)**
- 11. Approve Allocation of Ten (10) Below Market Rate Affordable Housing Units for Milpitas Unified School District (MUSD) Teachers within the Park Plan**
- 12. Consider Chamber of Commerce Budget Request and Provide Direction (Staff Contact: Cindy Maxwell, 586-3282)**
- \* 13. Note, Receipt and File Report on Undulator Survey Results for Mt. Diablo Avenue & Portola Drive Neighborhood (Jaime Rodriguez, 586-3335)**
- \* 14. Authorize the Purchasing Agent to Dispose of Surplus Fire Engine No. 38 at Auction (Staff Contact: Chris Schroeder, 586-3161)**
- \* 15. Approve Additional Payment Options for Milpitas Sports Center Members (Staff Contact: Kerrilyn Ely, 586- 3231)**
- \* 16. Authorize the Purchasing Agent to Dispose of Surplus Stairmaster 5600 at Auction (Staff Contact: Chris Schroeder, 586-3161)**

**XIX. ORDINANCES**

- 17. Introduce Ordinance No. 54.24 Amending Section 5.05 of Chapter 20 of Title I and Section 13.08 of Chapter 210 of Title V of the Milpitas Municipal Code to provide that notices of appeal to the City Council shall only be effective upon timely receipt of payment of the fee adopted or amended by resolution of the City Council and to repeal the ability to appeal the Animal Regulation Administrator's decision to an Appeal Board (Staff Contact: Tambri Heyden, 586-3280 and Peter Spoerl, 586-3040)**

## **XX. RESOLUTIONS**

- \* 18. Adopt Resolution Granting Final Acceptance: Interim Senior Center Site Improvements, Project No: 8151, (Staff Contact: Mark Rogge, 586-3403)**
- \* 19. Adopt A Resolution of the City Council of the City of Milpitas Adopting Local Goals and Policies for Community Facilities Districts and Adopt a Resolution of the City Council of the City of Milpitas Declaring Its Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes Pursuant to the Mello-Roos Community Facilities Act of 1982 (Staff Contact: Emma Karlen, 586-3145)**

## **XXI. BIDS AND CONTRACTS**

- \* 20. Authorize City Manager to Execute the Cost Sharing Agreement with The County of Santa Clara for 237/I880 Interchange Project (Project No. 4170) and Authorize the City Engineer to Execute a Contract Change Order: Right Turn Lane at Abel Street and Calaveras Boulevard Project, Project No. 4186, and 237/I880 Interchange Project (Project No. 4170) (Staff Contact: G. Armendariz, 586-3317)**
- \* 21. Authorize the City Manager to Execute the Agreement Amendment and Budget Appropriation: Abel Street Midtown Improvements (Project No. 8157), (Staff Contact: Mark Rogge, 586-3403)**
- \* 22. Approve Second Amendment To The Agency Agreement For Countywide Household Hazardous Waste Collection Program (Staff Contact: Darryl Wong, 586-3345)**
- \* 23. Amend Master Services Agreement with Peelle Technologies to Increase the Contract Amount by \$3,000 For The Payment of Sales Tax on The Software License for The Public Access System (Project No. 8131) (Staff Contact: Terry Medina, 586-2703)**
- \* 24. Approve An Agreement For Annual Hardware, Software And Support Services With Netversant For The City's Voicemail System Through April 4, 2008 (Staff Contact: Terry Medina, 586-2703)**
- \* 25. Authorize City Manager to Execute Agreement: Brian Kangas Foulk Engineers, Midtown North Main Street Improvements Project (Project No. 8165) (Staff Contact: Mark Rogge, 586-3403)**
- \* 26. Award Construction Contract, Utility Relocation Project Weller Lane and Winsor Street, Project No. 8153, Pacific Underground Construction (Staff Contact: Steve Erickson 586-3414)**
- \* 27. Approve A Contract For Interim Janitorial Service With Empire Maintenance Service (Staff Contact: Eddie Loreda, 586-2662)**
- \* 28. Approval of Agreement with Meyers-Nave to Provide Labor Negotiation Services related to IAFF, MPOA, and Protech Labor Negotiations and Approval of Purchase Order with Meyers Nave (Staff Contact: Richard Pio Roda, 586-3040)**

## **XXII. CLAIMS AND DEMANDS**

- \* 29. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**
- \* 30. **Authorize the Purchase of Tropos Wireless Network Equipment (Staff Contact: Bill Marion, 586-2701)**

**XXIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, APRIL 19, 2005, AT 7:00 P.M.**

**B E C O M E   A   C I T Y   C O M M I S S I O N E R !**

**Currently, there are openings on the following City Commissions:**

- ▶ **Arts Commission**
- ▶ **Bicycle Transportation Advisory Commission**
- ▶ **Citizens Emergency Preparedness Advisory Commission**
- ▶ **Community Advisory Commission**
- ▶ **Economic Development Commission**
- ▶ **Mobile Home Rental Review Board**
- ▶ **Parks, Recreation, and Cultural Resources Commission**
- ▶ **Recycling and Source Reduction Advisory Commission**
- ▶ **Youth Advisory Commission**

**Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or in the Agenda rack outside the Council Chambers. Contact the City Clerk's Office (586-3002) for information.**

**CITY OF MILPITAS**  
**Agenda Reports**  
**Milpitas City Council Meeting**  
**April 5, 2005**  
**6:00 p.m. Closed Session**  
**7:00 p.m. Public Business**  
**455 E. Calaveras Boulevard**

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**XIV. PUBLIC HEARINGS**

**1. Adopt Resolution Approving a Local Hazard Mitigation Plan (Staff Contact: Americo Silvi, 586-2810)**

**Background:** The Federal Disaster Mitigation Act of 2000 established a Pre-Disaster Mitigation (Competitive) Grant Program to provide funding to local governments to aid in the implementation of pre-disaster hazard mitigation projects. In order for the City of Milpitas to be eligible for these funds, a Local Hazard Mitigation Plan (LHMP) must be created and adopted by a Resolution of the Milpitas City Council.

The Association of Bay Area Governments (ABAG) received a grant from the Federal Emergency Management Agency (FEMA) to create a multi-jurisdictional LHMP for adoption by its member governments. The draft City of Milpitas LHMP is based on the ABAG plan.

Previously two Pre-Disaster Mitigation Grant requests were submitted to the City Council by the Engineering Department (Water Pipeline Replacement, Council Resolution 7503 and Large Gymnasium Retrofit, Council Resolution 7504) which, if selected by FEMA, require adoption of the LHMP in order to be awarded.

A public review notice for the LHMP was published in the March 3, 2005, Milpitas Post and a copy of the draft LHMP has been available for inspection in the Office of Emergency Services at Fire Administration.

**Recommendation:** Close the public hearing and adopt a resolution approving the Local Hazard Mitigation Plan.

**2. Introduce Ordinance No. 124.27 Amending Title XI Chapter 30 (Signs), Amending Title XI-10 (Planning, Zoning and Annexation) and Amending Chapter V-500 (Neighborhood Beautification) of the Municipal Code to Enhance the Code Enforcement Program (P-ZT2004-2) (Staff Contact: Tambri Heyden, 586-3280)**

**Background**

**City Council Actions**

At the May 18, 2004, Council Meeting, the Council approved a proposal to expand the City's code enforcement program by proceeding with amendments to the Neighborhood Beautification, Sign and Zoning Ordinances. The amendments were intended to reduce notification timeframes, add administrative citations to the sign code, enable fines without notice for certain violations and require temporary sign registration.

On December 21, 2004, the City Council considered the first reading of the amendments to these ordinances and directed staff to return to the Council in 90 days after achieving greater consensus for the amendments from the Sign Code Task Force. The Council also directed that, upon return of the amendments, the proposal to transition to proactive code enforcement not be included.

On March 15, 2005, the City Council again considered the first reading of this ordinance. The Council directed staff to readvertise a public hearing for April 5, 2005 and reintroduce the ordinance incorporating sign code enforcement options such as:

- Reduction of fines and/or
- A sliding scale that penalizes more heavily those that take a longer period to comply by providing a greater amount of time to comply with a first violation notice or
- Elimination of fines.
- 

#### **Reducing fines and sliding scale**

The Council's agenda materials contain a background report and matrix and ordinance that has been revised since the March 15<sup>th</sup> Council meeting to incorporate fines reduced by 50%, as well as the sliding scale option. These changes, along with the proposed outreach program, would reduce financial impacts to the business community and provide more time for compliance before a fine is levied for non-compliance. The 50% fine reduction for a first violation, for example, would be \$50 as opposed to the \$100 currently assessed for zoning and NBO first violations. If both the reduced fine and sliding scale options are adopted, the staff time and cost incurred up to the point of issuing a citation notice (fine) is 3 hours/\$88.

#### **Elimination of fines**

Elimination of fines would result in Sign Ordinance implementation similar to that used currently. Courtesy letters would be sent to those violating the ordinance. Most violators would comply and make their signs conform to the ordinance. Some violators would not comply, resulting in long-term enforcement requiring many hours of staff time and resulting in long-term impacts on their neighbors. Department data shows that over the past year the time to comply with sign code courtesy violations has doubled without the ability to enforce. If the Council chooses this option, Section 11.03 would need to be deleted and Section 9.04 would need to be renamed and modified as shown on the attachment in the Council's agenda materials called "No Fine Option".

#### **Modification of NBO to allow appeal of a decision of the City Manager**

The abatement procedure proposed for the Sign Code and the Zoning Ordinance is identical to that of the NBO with one exception. At the time the NBO was adopted, the City Council decided that the decision of the City Manager at an administrative hearing on abatement of a nuisance was final and could not be appealed to the City Council. However, the Sign Task Force recommended that the abatement procedure language be included with an additional provision allowing appeal of a decision of the City Manager for the Sign Code (30-9.06(g)), Zoning Ordinance (Section 26) and NBO. This NBO language is incorporated in Section 6 of the Ordinance on page 35. Adding this language to the NBO would be a departure from a decision by the City Council at the time the NBO was adopted. At that time the City Council felt that a decision of the City Manager should be final. The City Council may decide to keep the proposed language in Section 6 (page 35 of the ordinance) for the NBO or delete it to reflect the original position of the City Council.

#### **Line of sight triangle**

In addition to reflecting enforcement options, the reintroduction of Ordinance 124.27 contains a new subsection (4)(g) under open house directional sign (3.09 (o)) and garage sale sign regulations (3.09 (i)) to clarify the line of sight hazard issue raised at the March 15<sup>th</sup> Council meeting. Based on real estate sign height information provided by the real estate industry, it is proposed that such signs over 3 feet in height cannot be placed on a public sidewalk or other public right-of-way area if within the 45 foot line of sight triangle.

#### **Political sign section**



At the December 3, 2004 Sign Code Task Force meeting, when the Task Force's work was thought to be done, the Task Force discussed making changes to the political sign section of the sign code to limit the maximum aggregate area of political signs per candidate on a parcel. Since political signs were not being modified at this time, staff suggested that the Task Force include this recommendation in their recommendation of support of the proposed ordinance so that if the Council desired, the City Attorney could be directed to make the change at a later date.

## **ENVIRONMENTAL REVIEW**

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the ordinance text amendments may have a significant effect on the environment. The proposed text amendments will reorganize and clarify the Sign Ordinance, address violations in the Sign Ordinance and NBO and provide for Administrative Citation authority in the Zoning Ordinance. These changes will not have a significant effect on the environment.

### **Recommendation:**

1. Close the public hearing.
  2. Waive reading beyond title.
  3. Introduce Ordinance No. No. 124.27.
  4. Authorize proposed outreach program and continuation of quarterly task force meeting for one year after adoption of the ordinance.
  5. Authorize proceedings with updating the political sign section of the sign code, including adding a provision limiting the maximum aggregate area of political signs per candidate on a parcel.
3. **Approve Conceptual Transit Subarea Land Use Plan(s) For The Approximately 400 Acre Transit Subarea Which Includes The Great Mall Of The Bay Area, And Many Parcels Along Or Near The Vicinity Of McCandless Drive, Houret Drive, Centerpoint Drive, Sango Court, Tarob Court, Gladding Court, Capitol Avenue, Montague Expressway And Piper Drive. (Staff Contact: D. Carrington, 586-3275)**

### **Background:**

**Budget Objective:** The adopted budget objectives for the Department of Planning and Neighborhood Services include the preparation of a Transit Subarea Plan for the area surrounding the future Montague/Capitol BART station and two VTA Light Rail Stations. The intent of the study is to foster the economic development of the area, strengthen and expand retail uses to increase sales tax revenues, attract major retailers and provide housing and amenities such as parks, schools, retail and restaurants. The study meets the property owners' goal of providing an overall plan and process that will transform an underdeveloped area into a dynamic transit development area. The study will also foster the needs of the Valley Transportation Authority by increasing ridership, locating housing near transit and providing higher density housing types to maximize the capital investment in light rail and rapid transit facilities.

**Scope of Work:** The scope of work for the Transit Subarea Plan calls for a Phase I consisting of a Conceptual Visioning Plan prepared over a four-month period. The goal of the process is a vision plan that can guide developers and decision makers in the absence of a detailed specific plan amendment. Phase II tasks, in addition to a Midtown Specific Plan amendment, will include a general plan amendment, zoning changes, design guidelines, fiscal impact study and environmental impact report. This concept plan is Statutorily Exempt pursuant to Section 15262 of the CEQA Guidelines which states that a project involving only feasibility or planning studies for possible future actions which the City has not approved, adopted, or funded does not require the

preparation of an EIR or negative declaration, but does require consideration of environmental factors.

**Recent hearings:** In November 2004, the City Council approved a scope of work for Phase I and in December the City hired the consultants, Dyett & Bhatia, of San Francisco to prepare the Vision Plan. Stakeholder interviews were held in December of 2004. A workshop was held on January 20, 2005, and a design charrette was held on February 17, 2005. Three draft alternative concept plans have been prepared on the basis of input received during the stakeholder interviews, workshop and charrette and February community meeting. The City Council received a report on the status of the Transit Sub area Plan on March 1, 2005. The City Council Transportation Subcommittee received regular status reports on the project over the past year. On March 9, 2005, these concepts were presented to the Planning Commission along with background information that formed the basis for the evolution of the plans to date.

**Concepts presented to the Planning Commission:** Phase I of the Transit Subarea Plan, a "Vision Plan", was presented to the Planning Commission on March 23, 2005 for recommendation. The staff report for that hearing described the three alternative land use plans in detail and is included in the Council's agenda materials. In summary, the three alternatives were:

**Preliminary Concept Plan:** This concept is characterized by a retail mixed-use designation along the south side of Great Mall Parkway opposite the Great Mall, four transit-oriented neighborhoods, high-density mixed use along major corridors and a Boulevard Commercial frontage on the west side of Montague Parkway (south of Great Mall Parkway) providing retail, hotel, office and medical uses with FARs between 1.5 and 3.0 allowing structures to be between 4 and 12 stories tall (See Conceptual Land Use Plans in the Council's agenda materials). The retail mixed-use area could be the site of a "Lifestyle Commercial Center" similar to Bay Street in Emeryville or Santana Row in San Jose (See sketches in the Council's agenda materials). The number of dwelling units provided under this concept would range from 5,170 to 10,630 depending on whether development occurred at the low or high ends of the permitted density ranges. Non-residential development would range from 2.01 million square feet to 5.02 million square feet.

**Alternative Policy Choices Plan:** This concept differs from the Preliminary Concept Plan in that a High Density Mixed Use designation would be placed along the south side of Great Mall Parkway opposite the Great Mall. This would allow residential, hotel or office uses with retail and restaurants on the ground floor. Employment Commercial uses would be located on the west side of Montague Parkway (south of Great Mall Parkway) providing retail, hotel, office and medical uses with FARs allowing structures to be 2 to 6 stories tall. The number of dwelling units provided under this concept would range from 5,024 to 8,709. Non-residential development would range from 1.69 million square feet to 5.56 million square feet.

**Regional Entertainment Or Sports Facility Alternative:** In response to one of the project objectives of incorporating a regional attractor, this alternative is very similar to the Preliminary Concept Plan with the exception that a regional entertainment/sports facility would be located on the east side of Montague Expressway and south of Great Mall Parkway. The focus of this area would be a 25,000-seat stadium that would be suitable as a soccer stadium or entertainment venue. This type of facility would host approximately 20 games a year and several concerts. The consultant estimates that the costs to the City would be approximately \$75,000,000 to \$100,000,000. The number of dwelling units provided under this concept would range from 4,156 to 8,871 depending on whether development occurred at the low or high ends of the permitted density ranges. Non-residential development would range from 2.18 million square feet to 5.96 million square feet.

**Issues:** Several issues such as BART, stakeholder concerns, the rail spur and train turnaround “Wye”, sewage capacity, residential densities and the above-grade vs. retained cut Montague/Capitol BART station and trackway are of great importance for this project. The March 23, 2005, Planning Commission staff report in the Council’s materials contain a detailed analysis of these issues.

**Planning Commission Recommendation:** On March 23, 2005, the Planning Commission recommended that the City Council approve Phase I and initiate Phase II of the Transit Subarea Plan with two alternatives as follow:

1. A Concept Plan as described above under Preliminary Concept Plan. This concept would require an additional 0.62 to 2.01 million gallons per day of sewage capacity beyond that called for under the General Plan.
2. An Alternative Concept Plan that would be identical to the concept plan except that the area opposite the Great Mall would be designated High Density Mixed Use and would be characterized by residential, hotel or office uses. Retail or restaurant uses would be required on the ground floor. This designation would have a minimum gross density of 2.0 FAR with a maximum of 4.0 FAR. This concept would require an additional 0.62 to 1.83 million gallons per day of sewage capacity beyond that called for under the General Plan.

The two alternatives would provide the City with viable concepts to analyze in detail, and choose between, during the process of amending the Midtown Specific Plan in Phase II. The Planning Commission felt that the Regional Entertainment or Sports Facility Alternative was not feasible or in the best interests of the City due to its great expense and relative lack of residential and retail uses. As required by their contract, Dyett and Bhatia has prepared a draft brochure which is included in the Council’s agenda materials. If Phase I is approved, the brochure will be used to promote the Transit Subarea and to evaluate development proposals that are submitted prior to Phase II being completed. The cost of Phase II is approximately \$500,000 and a VTA grant of \$150,000 had already been awarded to the City.

**Recommendation:**

1. Close the public hearing.
2. Approve the Phase I Transit Subarea Concept Plan and Alternative Policy Choices Plan.
3. Direct staff to initiate Phase II of the Transit Subarea Plan in fiscal year ’05-’06 with the two alternatives: The Concept Plan and the Alternative Policy Choices Plan.

**XV. UNFINISHED BUSINESS**

**4. Approve Concept Design for the Interpretive Historical Display for the O’Toole Elms (Staff Contact: Troy Fujimoto, 586-3287)**

**Background:** This item was continued from the March 15, 2005, City Council meeting. To help mitigate the removal of the O’Toole Elm trees, KB Home is required to design and construct an interpretive historical display to be incorporated within the new elm grove. The applicant presented three concept designs for the historical display at the March Parks, Recreation, and Cultural Resources Commission (PRCRC) meeting.

The PRCRC provided comments and based on these comments, the applicant produced a fourth concept, Concept D. This concept includes a straight path between the double row of trees, up-lighting and flat historical plaques between each tree, wooden benches made from the existing trees, and three gathering locations that contain wood furniture

from the existing trees. Specific recommendations by the PRCRC included in Concept D are the following:

1. Include tables into the park that are made from the existing plan trees;
2. Include up lighting of the trees into the park plan; and
3. Incorporate a straight path through the tree grove.

In addition, the PRCRC was supportive of planting a small grove of four or five elm trees in the park that are the same age and specie as the trees in the double rows for the purposes of replacement in the event some of the trees do not survive.

**Recommendation:** Approve Concept D.

5. **Adopt Ordinance No. 262.1 (1) repealing Chapter 310 of the Municipal Code; (2) repealing Chapter 320 of the Municipal Code; and (3) introducing Ordinance 262.1, Adding Chapter 310 to Title I of the Milpitas Municipal Code Establishing Regulations Governing Access to Public Meetings and Public Records, Designating City Employee Salary Information by Title as a Public Record, Regulating Lobbyists' Activities and Solicitation of Donations by Public Officials and Establishing an Open Government Commission ("Milpitas Open Government Ordinance") (Staff Contact: Steve Mattas, 586-3040)**

**Background:** The proposed ordinance presented by Vice-Mayor Gomez establishes procedures governing access to public meetings and public records. The proposed ordinance repeals Chapters 310 and 320 of the Municipal Code, and incorporates Chapter 320, designating city employee salary information by title as a public record, into a new Chapter 310, which shall be known as "The Milpitas Open Government Ordinance." After publicly hearing the proposed ordinance at the Council's February 15, 2005 meeting, the Council directed staff make minor changes, which are now included in the Ordinance. They included the following:

1. Incorporated the current Open Government ordinance's language regarding City Councilmember, Mayor, Planning Commission members maintaining a "public officials' calendar" and add "City Manager" to the list of persons required to maintain a "public officials' calendar."
2. Eliminated reference to supervisor of records for City Councilmembers. As an alternative, designated the Open Government Commission as the body a citizen or other public records requestor may petition for City Councilmember records or public information should their public records request remain unsatisfied. In addition, the City Manager's "Weekly Report" is designated as a public record that must be disclosed under I-310-3.110.
3. Incorporated the current Open Government ordinance's provisions related to review of Form 700 for all staff required to file a Form 700 by Municipal Code, Councilmembers, City Manager and Planning Commission. Added language that requires staff liaisons to review the Form 700s for members of their respective commissions.
4. Correct Section I-310-2.140(c), allowing speakers a "maximum" of three minutes during public comment on any item and during citizens' forum. Limited Mayor and Councilmembers during the Councilmember announcement session of the agenda to the same amount of speaking time as members of the public during citizens' forum.
5. Added Section I-310-2.190, opening one senior staff meeting per month open to the public. Such meeting shall be publicly noticed and made open to the public. It shall occur during business hours.
6. Added language to Section I-310-3.170, requiring training to Councilmembers for entering data into an automated public officials' calendar system.

7. Added additional time for the implementation of the public records index, from the current proposed timeline of 6 months to 12 months, due to the voluminous amount of records, and the need to coordinate staff time, technology, technology projects and procedures, and for the implementation of documents posted on department websites.

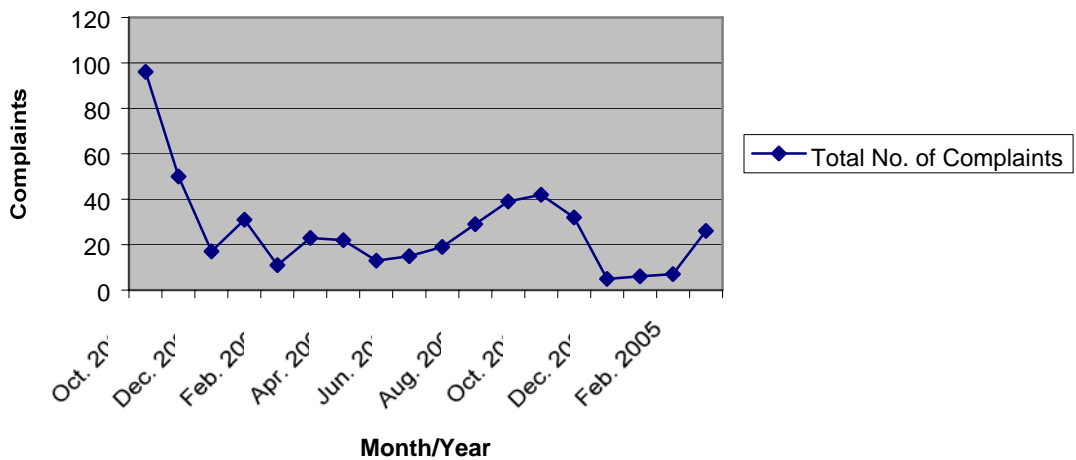
**Recommendation:**

1. Waive reading beyond the title for Ordinance No. 262.1.
2. Adopt Ordinance No. 262.1 (1) repealing chapter 310 of the Municipal Code; (2) repealing chapter 320 of the Municipal Code; and (3) adding Chapter 310 to Title I of the Milpitas Municipal Code establishing regulations governing access to public meetings and public records, designating city employee salary information by title as a public record, regulating lobbyists' activities and solicitation of donations by public officials and establishing an Open Government Commission ("Milpitas Open Government Ordinance").

**\* 6. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**

**Background:** Complaint levels continue to remain low as compared with the number of complaints the same time last year. A slight increase in number of complaints has been observed with warmer weather. Staff has continued with producing odor outreach information including a flyer insert in the Milpitas Chamber of Commerce *Panorama* (February 2005) and a *Milpitas Post* ad (March 2005). The Bay Area Air Quality Management District has reported the following number of complaints logged as of March 30:

**October 2003 - March 2005 Odor Complaint Summary**



**Recommendation:**

Note receipt and file progress report

**XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1. Call to Order by the Mayor**

**RA2. Roll Call**

**RA3. Approval of Minutes: March 1, 2005 and March 15, 2005**

**RA4. Approval of Agenda and Consent Calendar**

**RA5. Approve Allocation of Redevelopment Agency Funds to the Housing Trust Fund of Santa Clara County (Staff Contact: Felix Reliford, 586-3071)**

**Background:** At its meeting on November 2, 1999, the Redevelopment Agency (RDA) pledged \$500,00 to the Housing Trust Fund of Santa Clara County. The goal of the Trust Fund was to raise \$20 million to address the housing crisis in Silicon Valley. The goal has been exceeded and Phase III has started involving requesting additional funds to provide more affordable housing. The agency's previous pledge required by resolution that the funds be spent on affordable housing projects in Milpitas. Staff is currently working with Mid-Peninsula Housing Coalition (developers of the Milpitas Senior Housing project on N. Main Street) to obtain the \$500,000 to financially assist the project. To date, 26 Milpitas residents have received first-time homebuyer loans from the Housing Trust Fund.

On February 22, 2005, the Housing Trust Fund and Silicon Valley Leadership Group (formerly Silicon Valley Manufacturing Group) announced the proposal for "Phase III" a public-private compact between interested private-sector investors (employees foundations and individuals) and public agencies with a goal of assisting a minimum of 1,000 families per year for each of the next three years. A funding goal of \$1.5 million would allow the Housing Trust to invest funds in the creation of affordable rental housing and homeless and special needs housing and support first-time homebuyers.

To date, the Housing Trust Fund of Santa Clara County has raised more than \$25 million in local public and private contributions and has invested more than \$1.6 million in affordable housing opportunities throughout Santa Clara County. Since they began distributing funds in 2001, the Trust has already helped more than 4,255 families, including assistance to 1, 260 families to help them buy their first homes in Santa Clara County; enabled the development of hundreds of units of affordable housing rental housing worth over \$238 million; and helped create hundreds of units of shelter and special-needs housing making it possible for people like teachers, police officers, fire fighters, nurses and civic employees to live in the communities they serve.

As part of launching Phase III, the Housing Trust Fund of Santa Clara County and the Silicon Valley Leadership are requesting contributions from the private and public sector. The City of Milpitas has been asked to consider contributing \$150,000 towards the campaign drive for Phase III. Carl Guardino, President of the Silicon Valley Leadership Group, will be making a presentation to the Council on behalf of his organization and the Housing Trust Fund of Santa Clara County to address this mater.

Included in the Agency's agenda packet is a resolution of findings for preference to Milpitas residents and workers and for the allocation of funds (\$150,0000 to be used on a future affordable housing project within Milpitas).

**Recommendation:**

1. Approve budget appropriation of \$150,000 of Housing Reserve Funds for payment to the Housing Trust Fund of Santa Clara County.
2. Adopt a resolution demonstrating a compelling need to prefer Milpitas residents and workers for housing units using Housing Reserve Funds contributed to the Housing Trust Fund of Santa Clara County.

**RA6. Receive Progress Report on Library Design (Project No. 8162) (Staff Contact: Mark Rogge 586-3403)**

**Background:** The schematic design phase for the new library project is underway. The project is included in the Capital Improvement Program. Staff will give a brief presentation on the progress of the design at the Joint Redevelopment Agency and City Council Meeting.

**Recommendation:**

1. Note receipt and file the progress report on the library design.
2. Approve the Library Schematic Design as shown in the presentation and recommended by the Library Subcommittee.

**\*RA7. Authorize the City Manager to Execute a Consulting Services Agreement with Chong Partners Architects; and Approve a New CIP Project and Budget Appropriation for Midtown West Parking Garage (Project No. 8161 and No. 8170) (Staff Contact: Mark Rogge, 586-3403)**

**Background:** Two new parking garages are proposed to serve the development of North Main Street in the Midtown area. The concept for the Midtown East Parking Garage, which will be built on the east side of North Main Street, next to the proposed library, was developed in the City Council approved Library Concept Plan, and is included in the Capital Improvement Program (CIP) as project 8161. The Midtown West Parking Garage, which will be built on the west side of North Main Street near the proposed Health Center, was included in the City Council approved Memorandum of Understanding for the County Valley Health Center. Both parking garages were included in the North Main Street Development Environmental Impact Report, to satisfy CEQA requirements.

**East Garage**

The Midtown East Parking Garage will be designed in concert with the new library to serve library patrons, as well as general Midtown purposes. This garage will provide up to 300 parking spaces organized on 3 to 4 floors. The garage will include a decorative interface between the garage and the library lobby, entries that complement the library exterior, two elevators, and space for display of the City's historic fire engine.

**West Garage**

The Midtown West Parking Garage will be designed in accordance with the City's agreements with the County, to serve Health Center patrons, as well as general Midtown purposes. This garage will provide a minimum of 275 parking spaces organized on 3 to 4 floors on the recently acquired parcel that lies between Calaveras Boulevard and the Calaveras off-ramp on the west side of North Main Street. The garage may include retail space on the first floor along the Main Street frontage, a decorative elevator lobby near the northeast corner, nearest the Health Center, and a modest exterior that complements the area.

The Midtown West parking Garage is not yet included in the CIP. Therefore, staff is requesting approval to create and fund a new project for the Midtown West parking garage. The County requires 275 parking spaces for use by the health center, and the County has agreed to fund the cost of the 275 spaces up to \$25,000 each, for a total contribution of up to \$6,875,000 toward the construction of the garage. It is proposed that RDA tax increment to be reimbursed by the County, would fund any additional spaces beyond the 275 or additional amenities such as a ground floor retail space for this garage. An initial Budget Appropriation of \$1.3 Million from the RDA tax increment is sufficient to cover the design phase. A cost plan will be established in the initial phase of design to determine the total project cost. Staff would request the additional appropriation to complete the funding after completion of design.

Staff issued a Request For Proposal (RFP) for design/architecture services for the parking garages, and interviewed five respondents in conformance with the City's consultant selection process. Based upon the proposals, interviews, and subsequent negotiations Staff recommends that the firm of Chong Partners Architecture provide the required design/architecture services required to design both parking garages. Due to the similarities and proximity of the two garages, staff believes that a single design firm will provide cost efficiency in both the design and construction phases. Staff has negotiated a scope and fee for these services not to exceed \$1,831,920, which is considered reasonable for the work. The design fee will be charged to the two projects as follows: Midtown East Parking Garage \$912,126.00; Midtown West Parking Garage \$919,794.00. The design fee for the East Garage is within the amount anticipated in the earlier cost plan for this project and there are sufficient funds in Project 8161 for this purpose. The Library Subcommittee recommended approval of the contract at the March 22, 2005 meeting.

**Recommendation:**

1. Authorize the City Manager to execute the agreement with Chong Partners Architecture for the Midtown East & West Parking Garages subject to approval as to form by the City Attorney.
2. Approve a new CIP for the Midtown West Parking Garage and an initial budget appropriation for the design phase of the project in the amount of \$1.3 Million from RDA tax increment, to be reimbursed by the County.

**RA8. Agency Adjournment**

**XVII. REPORTS OF OFFICERS AND BOARDS**

**City Council**

7. **Request the Santa Clara County Board of Supervisors Designate Regional Medical Center as a Third Trauma Center in the County: Councilmember Livengood**

**Background:** Councilmember Livengood placed this item on the agenda and is requesting the City Council support the Santa Clara County Board of Supervisors in designating Regional Medical Center as a trauma center. Since November 2004, the County has been operating with two trauma centers following the closing of San Jose Medical Center. As a result, Milpitas is now divided in half by 237/Calaveras Boulevard and trauma patients north of this dividing line are transported to Sanford Medical Center and south of this dividing line, patients are transported to Valley Medical Center. The trauma team from San Jose Medical Center moved to Regional Medical Center and is currently seeking trauma center designation from the County. A trauma center at Regional Medical Center (formerly Alexian Brothers) would be the closest trauma center to Milpitas.

**Recommendation:** Request the Santa Clara County Board of Supervisors Designate Regional Medical Center as a Third Trauma Center in the County.

**Sister Cities Commission**

8. **Approve Recommendation To Extend Sister City Relationship: Dagupan City, Philippines (Staff Contact: Leslie Stobbe, 586-3352)**

**Background:** On April 15, 2003, the Milpitas City Council approved a two-year sister city relationship with the City of Dagupan, Philippines. The Memorandum of Understanding focused this relationship as a municipal exchange of information sharing about government services and encouraging goodwill between the cities. A secondary



provision between the cities was to explore expanding the initial focus area to include cultural and student exchanges. It was also agreed that within two years from the date of signing of this MOU, the Milpitas Sister Cities Commission would evaluate the relationship.

The commission found two critical elements essential to maintain open dialogue and track developments: 1) ongoing review of communications between city representatives, and; 2) prompt follow-through of questions and scheduling issues. Both were addressed at commission meetings and with sub-committee support to prepare visits and schedule tours. In addition, the commission agreed to use an objective format to evaluate relationship objectives with its established criteria to recommend and conduct sister city relationships. Seven of the nine commissioners and alternates compared selected applicable criteria with the three objectives of this MOU. An evaluation summary is included in the Council packet. A grand total of 330 points was achieved overall, from 435 points possible in the ranking for all MOU elements. This represents a 76% achievement rating for the initial years of this relationship. Commissioners also provided comments, which were supportive of maintaining this positive relationship for another two years. Some commissioners noted that Dagupan appears to benefit more from the relationship than Milpitas. However, it should also be noted that benefit to elected officials and management staff in Milpitas was realized while preparing the latest information in municipal governance, researching information on future projects, and providing one-on-one interviews to demonstrate City of Milpitas policies. It is for these reasons that, at its March 24, 2005 meeting, the Sister Cities Commission recommended a two-year extension of the MOU for a Sister City Relationship Between Milpitas and Dagupan.

**Recommendation:**

1. Approve the Sister Cities Commission's recommendation to extend the Sister Cities Relationship with Dagupan, Philippines, for two years.
2. Authorize Mayor Esteves to sign an updated version of the existing MOU recognizing the extension between Milpitas and Dagupan at a later date for forwarding to City of Dagupan Mayor Benjamin Lim.

**\* 9. Approve Budget Request From The Sister Cities Commission For Materials Supporting 2005 Huizhou City Student & Cultural Exchange Visit (Staff Contact: Leslie Stobbe, 586-3352)**

**Background:** On April 24, 2004, the City of Milpitas established a Memorandum of Understanding (MOU) for a two-year sister city relationship with the City of Huizhou, China. The MOU recognizes citizens, civic and business groups of each city as ambassadors of goodwill to organize cultural exchanges that may include art, history, education, health and sports interests, study of business and commerce, and other information sharing. Sister Cities Commissioner Chair Dennis Grilli will lead a group of six (6) adult delegates and nine (9) exchange students from Milpitas High School to Milpitas' first official sister city visit to Huizhou during April 16 – 24, 2005.

Included in the Council packet is an itinerary for three days in Huizhou and three days in Beijing that Mr. Grilli facilitated with Milpitas community representatives and Mr. Johnson Shi, Huizhou's Deputy Director of Foreign & Chinese Overseas Affairs. It includes and tours of City facilities and points of interest. The budget request outlined below includes appropriate gifts for ceremonial and greeting purposes.

The Commission reviewed proposed expenses at its February 24, 2005 meeting and staff estimates pricing as follows:

Item	Purpose/Event	Requested Amount for Council Approval: 4/05/05
50 <sup>th</sup> Anniversary Books	Adult gift bag item (15)	\$375.00
Vitamin supplements	Adult gift bag items (15 sets)	\$150.00
SCI certificate framing with plaque	Gift at Opening Ceremony	\$250.00
Art supplies for City Gift	Vase creation by MHS for official city gift	\$300.00
City of Milpitas flag with floor plaque	Parting gift at Farewell Ceremony	\$150.00
Contingency	Covers unforeseen expenses for materials & supplies	\$125.00
Ground Transportation, Hong Kong International to Huizhou	Transport out of Hong Kong area to awaiting transport provided by Huizhou.	\$600.00
<b>TOTAL</b>		<b>\$1,950.00</b>

Council budget approval for fiscal year 2004-05 provides up to \$2,600 per sister city per year. Including an expense for \$89.02 to present the MOU as an etched plaque to Huizhou Vice Mayor Mr. Xu, a budget of \$560.98 would remain to support sister city activities with Huizhou through the remainder of this fiscal year, if needed.

**Recommendation:**

1. Approve expenses for the Huizhou City April 2005 cultural and student exchange from the Council's Community Promotions budget.
2. Authorize the City Manager to execute invoices not-to-exceed \$1,950.

**XVIII. NEW BUSINESS**

**\* 10. Approval of Conduct Public Outreach for Individuals Interested in Serving on the Open Government Commission (Staff Contact: Richard Pio Roda, 586-3040)**

**Background:** Section I-310-4.10 of the Milpitas Open Government Ordinance establishes an Open Government Commission. The Commission shall consist of five members appointed by the City Council. All members of the Commission must have demonstrated interest in the issues of citizen access and participation in local government.

The term of each appointed member shall be two years unless earlier removed by the City Council. The Commission shall elect a chair from among its appointive members. The chair's term of office will be one year. Members of the Commission serve without compensation.

The Commission advises the City Council and provides information to other City departments on appropriate ways in which to implement the Open Government Ordinance. The Commission will develop appropriate goals to ensure practical and timely implementation of the Open Government Ordinance and can propose amendments of the ordinance to the City Council. The Commission will report to the City Council at least once a year on any practical or policy issues encountered in the administration of the ordinance. The Commission will receive and review regular quarterly reports on requests for public information.

The Commission will recommend to the Council an administrative process for the review and enforcement of the ordinance. Citizens may appeal to the Open Government Commission if public requests for information are denied or

unsatisfied. The Commission is also the appellate body for public requests for City Council members' public records that are denied or unsatisfied.

City Clerk will conduct public outreach which will include interested individuals submitting a Milpitas Community Service application. Concerning the timeline for public outreach, pending approval of the Open Government Ordinance on April 5, 2005, and opening the public outreach period for 30 days, the Council may appoint individuals at its May 17, 2005, meeting, with the deadline for submittal of applications during the second week of May. If the Council wants to appoint individuals sooner, at the May 3, 2005, meeting, Community Service Applications would have to be submitted by April 21, 2005.

**Recommendation:** Direct staff to conduct public outreach for individuals interested in serving on the Open Government Commission in accordance with the Council's procedures and direct staff to set the deadline for applications for either April 21, 2005, for the May 3, 2005, Council meeting or the second week of May for the May 17, 2005, Council meeting.

**11. Approve Allocation of Ten (10) Below Market Rate Affordable Housing Units for Milpitas Unified School District (MUSD) Teachers within the Park Place Residential Development (Staff Contact: Felix Reliford, 586-3071)**

**Background:** Part of the Planning Commission's and City Council's approval of a 285-unit multi-family residential condominium project located at 95 East Curtis Avenue also included the execution of an Owner Participation Agreement (OPA). In exchange for City's Redevelopment Agency providing financial assistance to the project, fifty-eight (58) units must be affordable. The 58 affordable housing units include: 18 very low, 6 low, and 34 moderate-income units. The Redevelopment Agency will also be providing \$98,000 and \$35,000 down payment assistance (low interest rate loans) for very low and low income households, respectively.

Several years ago, the MUSD sent a letter to the City Council requesting the Council to consider allocating future affordable housing units to MUSD qualified teachers. Given the costs of housing in comparison to teacher salaries, the MUSD was losing approximately 25%-30% of their teachers within a three-year period based on the lack of their ability to find affordable housing in the Bay Area. Since then, the City Council allocated affordable housing units for MUSD teachers in the Parc West Apartments at the Great Mall of the Bay Area.

Staff is recommending that the City Council authorize staff to allocate ten (10) of the proposed affordable housing units in the Parc Place development. Staff recommends the following allocation:

<u>Income Category</u>	<u>Total Number of Units for MUSD Teachers</u>
Very Low	4
Low	2
Moderate	4

The Council should be advised that MUSD teachers that are not selected would still have an opportunity to apply for the affordable housing units through the regular process offered to the general public. As required by the Council, the balance of 48 units would be offered to the general public with preference to Milpitas residents, people that work in Milpitas and all others.

Applications for the affordable housing units at Parc Place were made available on March 10<sup>th</sup> and the submittal deadline closes on April 8<sup>th</sup>. Notices were provided in the Milpitas Post, Cable TV, City's Website, public buildings and the public library.

**Recommendation:** Approve the allocation of ten (10) below market rate affordable housing units for Milpitas Unified School District teachers in the Parc Place Development.

**12. Consider Chamber of Commerce Budget Request and Provide Direction (Staff Contact: Cindy Maxwell, 586-3282)**

**Background:** The Milpitas Chamber of Commerce has submitted a budget funding request for FY 2005-06. The Chamber proposes to provide additional services to the City for visitor bureau activities and a retail promotion campaign. Their request letter is included as an attachment to the Council agenda. Following is a summary of their request:

Service	Approved FY 2004-05	Proposed FY 2005-06	Change
Visitor Bureau staffing	\$ 0	\$15,000	\$15,000
Visitor Info Packets	\$ 3,200	\$ 4,500	\$ 1,300
Milpitas Map	\$ 2,000	\$ 3,000	\$ 1,000
Community Economic Profile	\$ 900	\$ 900	\$ 0
Industrial Guide	\$ 900	\$ 900	\$ 0
Dining, Lodging & Entertainment Guide	\$ 2,600	\$ 3,000	\$ 400
Business Experience Day	\$ 800	\$ 800	\$ 0
Retail Promotion Campaign	\$ 0	\$ 4,000	\$ 4,000
Total	\$10,400	\$32,100	\$21,700

**Recommendation:** Consider the Chamber of Commerce's budget request and provide direction to staff for incorporation into the proposed City budget for FY 2005-06.

**\* 13. Note, Receipt and File Report on Undulator Survey Results for Mt. Diablo Avenue & Portola Drive Neighborhood (Jaime Rodriguez, 586-3335)**

**Background:** The City of Milpitas received a petition from the residents of the Mt. Diablo Avenue on September 2, 2004 signed by approximately 47 residents to study the need for and install undulators along their street to assist in providing compliance of the prima facie 25-MPH speed limit for their street.

A community meeting was held on October 21, 2004 in response to the neighborhood petition with approximately seven (7) residents in attendance. Traffic data collected prior to the meeting indicated an 85% (critical speed) of 23-MPH for Mt Diablo Av; a total of 5 crashes in a 4-year period, 2 on Mt Diablo Av and 3 on Portola Dr; and an average daily traffic volume of 425 vehicles per day.

Although there was no speeding observed during the collection of staff's field data, the City notified the residents that it would continue on with its undulators study by conducting a post card survey to determine the level of support of the neighborhood for the installation of the devices. City policy requires that more than 70% of the residents in the neighborhood support the undulator's installation, including all the residents living adjacent to the proposed undulator locations. The residents were also informed that the City would require the installation of undulators along Portola Dr in addition to those on Mt. Diablo Av if the survey results showed support for the undulators along Mt. Diablo Av; the reason being to avoid spill-over traffic impacts onto Portola Dr. All

the residents in attendance of the community meeting were in support of the City's recommendation.

The City mailed approximately 66 surveys to the residents of Mt. Diablo Avenue and Portola Drive, one per household, on December 6, 2004 to determine the level of support for the undulators. A follow-up survey was delivered on February 7, 2005 to those households that had not yet responded. 52 responses were received through February 28, 2005. 69% of the responding households support the installation of the undulators; City policy requires that more than 70% of the residents support the undulator's installation including those residents living adjacent to the proposed locations. Not all the residents living adjacent to the proposed locations support their installation. The survey results and a map showing the recommended undulator locations in the survey are attached.

City staff is not recommending the installation of undulators for Mt. Diablo Avenue and Portola Drive for the following reasons:

1. No speeding was observed during the collection of staff's field data,
2. There is not a strong majority support from the households to support their installation,
3. Lack of support from the households immediately adjacent to the proposed undulator locations.

Staff wants to properly address the communities concerns and is recommending the following actions be taken:

- Conduct observations during the next soccer season, when residents at the community meeting complained that the most speeding was occurring. This is due to the high number of non-residents using Mt Diablo Avenue and Portola Drive to access the sports fields at Ranch Milpitas Middle School park.
- Provide signage to assist in notifying motorists of the speed limit for both streets. Staff has already installed 25 MPH speed limit signs at the entrance to each street off of South Park Victoria Av.
- Provide curve-warning signs at the east end of each street before the park to assist in slowing motorists down before the curve. Staff has already initiated work orders to install these signs.

City staff will notify the residents of the above recommendations immediately after Council action.

**Recommendation:** Note Receipt and File Report on Undulator Survey Results for Mt. Diablo Avenue & Portola Drive Neighborhood. The installations of undulators are not recommended for these streets.

- \* 14. **Authorize the Purchasing Agent to Dispose of Surplus Fire Engine No. 38 at Auction (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Engine No. 38 a 1975 Ford Van Pelt Fire Truck Lic. # 669097, Vin. # D80DVX29425 has ended its useful life with the City. It has been stripped of any reusable equipment and is now ready to be disposed of as surplus. In the past, equipment of this type has been donated to the Spring Valley Volunteer Fire Department but due to its very poor mechanical condition, the City did not want to take the risk of incurring any possible liability, therefore staff requests permission to auction the unit off pursuant to section I-2-10.03 of the Municipal Code "Disposal of more than \$500".

**Recommendation:** Approve the request to auction Engine No. 38.

- \* 15. **Approve Additional Payment Options for Milpitas Sports Center Members (Staff Contact: Kerrilyn Ely, 586- 3231)**

**Background:** Periodically staff reviews the Sports Center's fee structure to ensure that our facility and program fees provide our customers the most efficient, convenient, and fair payment options. Staff reviewed customer evaluations, surveyed comparable facility fees from surrounding facilities and cities and analyzed findings as they related to our existing fees and payment structures.

Currently, the Sports Center offers members the fitness pass options that involve purchasing non-refundable "visits" in increments. This structure has received various complaints due to inconvenience created by members having to continuously buy and add additional visits. In addition, members who workout frequently at the current \$3.00 per visit fee complain that the Sports Center is very costly for its limited amenities. As an example, a member who works out daily would spend approximately \$72.00 per month.

#### **Current Sports Center Membership Passes**

<b>Existing MSC Fitness Pass</b>	<b>Residents</b>	<b>Seniors Resident only</b>	<b>Non- residents</b>
Five (5) Visits	\$15.00	\$ 7.50	\$15.00 + \$25.00 annual fee
Ten (10) visits	\$30.00	\$15.00	\$30.00 + \$25.00 annual fee
Fifteen (15) visits	\$45.00	\$22.50	\$45.00 + \$25.00 annual fee
Twenty (20) visits	\$60.00	\$30.00	\$60.00 + \$25.00 annual fee

Recreation Services staff surveyed similar public and private fitness providers to compare our existing structure and identify other viable payment options that could be offered to our members. The results of this research clearly indicated that the majority of comparable facilities offer membership packages in monthly and annual increments.

Staff reviewed the recommendation of adding monthly and annual pass options on March 7, 2005 with the Parks, Recreation and Cultural Resources Commission (PRCRC) who supported the staff recommendation and suggested that staff include a 10% non-resident fee scale and remove the annual \$25.00 fee for the monthly and annual passes.

#### **Proposed Monthly and Annual Membership package options:**

<b>New MSC Packages Options</b>	<b>Residents</b>	<b>Seniors (50+) Residents</b>	<b>Non –Residents *</b>
Monthly Unlimited Use	\$50.00	\$25.00	\$55.00
Three Month Unlimited Use	\$150.00 (50/mo)	\$75.00 (25/mo)	\$165.00 (55/mo)
Six Month Unlimited Use	\$ 250.00 (42/mo)	\$125.00 (21/mo)	\$275.00 (46/mo)
Annual Unlimited Use	\$ 450.00 (38/mo)	\$225.00 (19/mo)	\$495.00 (41.25/mo)

\* PRCRC recommended non-resident fee (10% above residents fees) replacing annual \$25.00 non-resident fee

The monthly annual payment options are a common fee structure used within the fitness club industry. These new package options provide customer convenience, encourage use of facilities, reduce staff time and provide financial incentive for purchase of long-term packages.

Currently, there are seven hundred non-residents members generating approximately \$17,000 per year in non-resident fee revenue. Staff projects that half of our current non-resident members may purchase new monthly or annual passes resulting in the possible generation of an additional \$10,500 or 41% increase in non-resident revenue per year. The existing “visit” pass options will continue to be available to those members who may not wish to purchase monthly or annual unlimited use passes.

**Recommendation:** Staff is recommending approval of the following proposed fee structure adjustments as follows:

1. Approve recommended additional monthly and annual fitness packages for Milpitas Sports Center effective May 1, 2005.
2. Approve the Parks, Recreation and Cultural Resources recommendation to amend the non-resident fee structure for new monthly and annual unlimited use passes to add 10% above resident fees and remove the annual fee of \$25.00.

**\* 16. Authorize the Purchasing Agent to Dispose of Surplus Stairmaster 5600 at Auction (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In 2001 the City purchased a Stairmaster 5600 Freerunner from the Stairmaster Company. The equipment was in use in the Sports Center until November of 2004 when the motherboard on the unit failed. At that time it was learned that Nautilus had acquired Stairmaster and no replacement parts were available from the manufacturer. Thus, the unit has ended its useful life with the City. Auction BDI estimates the value of the unit at auction of from \$300 to \$700. Staff requests permission to auctioning the unit off pursuant to section I-2-10.03 of the Municipal Code “Disposal of more than \$500.”

**Recommendation:** Approve the request to auction the Stairmaster 5600.

## **XIX. ORDINANCES**

**17. Introduce Ordinance No. 54.24 Amending Section 5.05 of Chapter 20 of Title I and Section 13.08 of Chapter 210 of Title V of the Milpitas Municipal Code to provide that notices of appeal to the City Council shall only be effective upon timely receipt of payment of the fee adopted or amended by resolution of the City Council and to repeal the ability to appeal the Animal Regulation Administrator’s decision to an Appeal Board (Staff Contact: Tambri Heyden, 586-3280 and Peter Spoerl, 586-3040)**

**Background:** The City’s Animal Regulation Ordinance, adopted in 1995, provides the ability for violators to request a hearing conducted by the Animal Hearing Officer. As per the ordinance, decisions by the Officer, currently a staff member of the Housing Division, resulting from the administrative hearing can be appealed to an appeal board, made up of one or more persons, to be established by City Council resolution. Such an appeal board has never been formed and no one has formally submitted this type of written appeal. Thus, it is recommended that, similar to the Neighborhood Beautification Ordinance, the remedy to contest an administrative officer’s decision be through the court system.

In addition, this issue has brought to light an outdated section of the City's Municipal Code Standard Procedures Chapter 20 governing all types of appeals. By Resolution No. 6449, dated July 18<sup>th</sup>, 1995, the City Council adopted a comprehensive master fee schedule for all City fees and charges in order to recover the costs incurred by the City. This resolution raised the then-existing fee for appeals of administrative decisions to the City Council from \$25 to \$100. Section 5.05 of Chapter 20, however, still references the old fee of \$25, providing that a notice of appeal to the City Council shall not be effective unless a notice of appeal is filed and, where required, "said \$25 fee" paid within the time required. For the sake of internal consistency, the proposed ordinance would amend this section to provide that a notice of appeal requires payment of the fee adopted or amended by resolution of the City Council.

**Recommendation:**

1. Waive reading of Ordinance No. 54.24 beyond the title.
2. Introduce Ordinance No. 54.24.

**XX. RESOLUTIONS**

**\* 18. Adopt Resolution Granting Final Acceptance: Interim Senior Center Site Improvements, Project No: 8151, (Staff Contact: Mark Rogge, 586-3403)**

**Background:** This project consisted of providing a building pad for the Interim Senior Center modular building, a new trash enclosure, landscaping preparation and planting with new irrigation facilities, and utility service extensions. The Interim Senior Center Site Improvements Project was initially accepted by City Council on March 16, 2004, and the one-year project warranty period has since expired. Prior to the expiration of the warranty period, City staff conducted a final project inspection and determined the work performed by the contractor, Joseph J. Albanese, Inc., to be satisfactory. Therefore, staff requests that Council grant final acceptance and allow for the release of the contractor's bond.

**Recommendation:** Adopt resolution granting final acceptance and release of the contractor's bond.

**\* 19. Adopt A Resolution of the City Council of the City of Milpitas Adopting Local Goals and Policies for Community Facilities Districts and Adopt a Resolution of the City Council of the City of Milpitas Declaring Its Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes Pursuant to the Mello-Roos Community Facilities Act of 1982 (Staff Contact: Emma Karlen, 586-3145)**

**Background:** At its January 18<sup>th</sup> meeting the City Council approved the Elmwood Residential Development Project and the Disposition and Development Agreement between the Milpitas Redevelopment Agency and KB Homes Southbay Inc (developer). As part of the Disposition and Development Agreement, the development of the site is subject to the establishment and annexation into a Community Facilities District (CFD) for park maintenance and street landscape maintenance. The developer has indicated their readiness to create a Community Facilities District.

In order to establish the CFD, it is necessary for the City Council to adopt two resolutions. The first resolution pertains to local goals and policies concerning the use of CFDs. Included in the City Council's agenda packet is The Local Goals and Policies for Community Facilities District document that is intended to meet the requirements of California Government Code Section 53312.7(a). In summary, the Local Goals and Policies for Community Facilities District establishes the need for new development to contribute towards the costs of maintaining parks and street landscapes areas within the City so that current Milpitas residents will not have to suffer reduced levels of service



resulting from new residential development. The cost of providing these maintenance services is an annual, recurring cost that is not covered by any development impact fees. To achieve this goal, the City shall require all proposed residential development containing of four or more dwelling units to fund parks and street landscapes maintenance services by forming or annexing to a CFD. An annual Special Tax will be levied on the new residential property to pay for these services.

The second resolution is to declare the City's intention to establish a Community Facilities District and to authorize the levy of special taxes. The type of services proposed to be funded by a CFD are described in Exhibit A of the resolution and the rate and method of apportionment of Special Tax are described in Exhibit B of the resolution. Undeveloped property, non-residential property, public property or property owner association property are exempt from the annual Special Tax. In addition, affordable housing units that are subject to deed restrictions, resale restrictions and/or regulatory agreements recorded on the property are assessed at reduced rates for the Special Tax.

**Recommendation:**

1. Adopt A Resolution of the City Council of the City of Milpitas Adopting Local Goals and Policies for Community Facilities Districts.
2. Adopt a Resolution of the City Council of the City of Milpitas Declaring Its Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes Pursuant to the Mello-Roos Community Facilities Act of 1982.

**XXI. BIDS AND CONTRACTS**

- \* **20. Authorize City Manager to Execute the Cost Sharing Agreement with The County of Santa Clara for 237/I880 Interchange Project (Project No. 4170) and Authorize the City Engineer to Execute a Contract Change Order: Right Turn Lane at Abel Street and Calaveras Boulevard Project, Project No. 4186, and 237/I880 Interchange Project (Project No. 4170) (Staff Contact: G. Armendariz, 586-3317)**

**Background:** Street resurfacing on Calaveras Boulevard from 237/I-880 Interchange to Abbott Avenue is planned to be done this spring. The Valley Transportation Authority (VTA) had attempted to negotiate a contract change order with the contractor on the 237/I880 Interchange project for this work. Because the City is to contribute toward these improvements, staff reviewed and questioned the price proposal, in excess of \$300,000. Staff has a negotiated a price to complete the same work with a contractor working on a nearby City Project, for half the price that VTA received.

On July 6, 2004, the Council authorized the City Manager to execute a cost sharing agreement for VTA to provide \$62,500 as it's share for this pavement work between I-880 and Abbott Avenue. Since these funds are actually coming from County Measure B, a new cost sharing agreement with the County of Santa Clara is now necessary with a not-to-exceed County share of \$62,500.

The City Council awarded Capital Improvement Project 4186 Right Turn Lane at Abel Street and Calaveras Blvd. project to OC Jones and Sons on November 16, 2004. The completed project will provide an additional right turn lane from northbound Abel Street to eastbound Calaveras Boulevard. The anticipated completion date is May 2005. The construction is underway and is close proximity to the pavement work proposed above.

Staff recommends that additional pavement work between I-880 and Abbott Avenue be included in this project. Staff has negotiated a fee not to exceed \$146,524.25 with the Contractor for this additional work, and the approval of a contract change order is proposed. The total anticipated total cost of the work, including City administration, inspection, and material testing, is \$168,524 and is available from Project 4170.

**Recommendation:**

1. Authorize City Manager to enter into a cost sharing agreement with the County of Santa Clara, in a not-to-exceed amount of \$62,500.
2. Authorize the City Engineer to execute the Contract Change Order for OC Jones & Sons in the amount of \$146,524.25
3. Approve a budget appropriation in the amount of \$62,500 from County funds into project 4170.

- \* 21. **Authorize the City Manager to Execute the Agreement Amendment and Budget Appropriation: Abel Street Midtown Improvements (Project No. 8157), (Staff Contact: Mark Rogge, 586-3403)**

**Background:** On March 25, 2004, the City Council awarded a consultant services agreement to JMH Weiss, Inc. to provide base mapping, utility mapping, and to design street improvements on Abel street from Weller lane to Great Mall Parkway to address the appropriate upgrades and additions required to create a boulevard corridor on Abel.

Staff now recommends that JMH Weiss perform additional services to pothole and excavate to verify the depth and locations of buried underground utilities, and to verify the accuracy of record information used for the design. A review of the 95% construction plans has determined the most critical utility locations to pothole. Because contractors often submit construction claims based upon finding unrecorded or unexpected buried utilities, staff recommends this additional work as means to reduce possible costly construction claims.

Staff has negotiated a fee for these additional services not to exceed \$45,000, which is considered reasonable for the work. A budget appropriation will be required to cover the costs associated with these additional design services including a contingency, staff inspection and administration time to complete the project design. Staff recommends a Budget Appropriation of \$80,000 from RDA Bond Proceeds into the project is approved.

**Recommendation:**

1. Authorize the City Manager to execute the Agreement Amendment with JMH Weiss in the amount of \$45,000 subject to approval as to form by the City Attorney.
2. Approve Budget appropriation in the amount of \$80,000 from RDA Bond Proceeds.

- \* 22. **Approve Second Amendment To The Agency Agreement For Countywide Household Hazardous Waste Collection Program (Staff Contact: Darryl Wong, 586-3345)**

**Background:** The Santa Clara County Department of Environmental Health has administered a Countywide Household Hazardous Waste Collection (HHW) Program since October 1991. A May 20, 2003 agreement between the County and participating jurisdiction allows the program to continue for a 3-year period, which must be renewed each year with an amendment. Amendment #1 was approved on May 18, 2004. All county jurisdictions must approve amendment #2 before July 1, 2005 to continue the countywide and local programs.

The HHW Program provides for legal, convenient, and economical disposal of unwanted hazardous household products such as paints, solvents, pesticides, cleaning chemicals, aerosols, automotive fluids and batteries. These items and other similar hazardous articles are collected at three permanent facilities located in San Jose, Sunnyvale, and San Martin. Residents are able to schedule appointments at these sites throughout the year as needed. The next mobile event in Milpitas for residents is scheduled for June 2005.

**Recommendation:** Authorize the City Manager to execute the Second Amendment to the Countywide Household Hazardous Waste Collection agreement with the Santa Clara County Department of Environmental Health, subject to approval as to form by the City Attorney.

- \* 23. **Amend Master Services Agreement with Peelle Technologies to Increase the Contract Amount by \$3,000 For The Payment of Sales Tax on The Software License for The Public Access System (Project No. 8131) (Staff Contact: Terry Medina, 586-2703)**

**Background:** During the summer of 2003, City Council began discussing the concept of allowing the public access to non-confidential documents at the Self Help workstations located on the 1<sup>st</sup> and 3<sup>rd</sup> floors of City Hall. Additionally, Council expressed an interest in making non-confidential information available to the public 24 hours a day 7 days a week via the Internet. The City's document imaging system can provide the capability to retrieve documents that have been scanned or converted from microfilm for the public to access at both the Self Help workstations located at City Hall or through the Internet.

In August 2004, City Council approved a Master Services Agreement with Peelle Technologies (the City's document imaging vendor) to purchase software licenses and to provide certain professional services in order to implement a Public Access Information System (PAIS) that will be accessible to the public via the Internet and at the Self Help workstations located at City Hall. The Agreement is comprised of two components: programming services and software licensing. The cost for programming services was estimated at \$7,320. The cost for software licensing that will allow up to 74 users to access the document images via the Internet or at the Self Help workstations at City Hall was quoted at \$32,998. The total project cost for services and software licensing was approved at an amount not exceed \$ 41,000. Unfortunately, the quoted cost for the software licensing did not include sales tax.

This request is for approval to increase the amount of the Master Services Agreement by \$3,000 in order to pay for the applicable sales tax on the Public Access software license. Approval of this request will provide the funding necessary to complete the purchase of the software licenses that will allow public to access to non-confidential information at both the Self Help workstations located at City Hall or through the Internet.

Funding to support this request is available in Capital Improvement Program 8131 (Information Management).

**Recommendation:** Authorize the Interim City Manager to approve the 1st Amendment to the Master Service Agreement between Peelle Technologies and the City of Milpitas increasing the agreement by \$3,000 for a total amount not to exceed \$44,000.

- \* 24. **Approve An Agreement For Annual Hardware, Software And Support Services With Netversant For The City's Voicemail System Through April 4, 2008 (Staff Contact: Terry Medina, 586-2703)**

**Background:** In fiscal year 1998/99, the City of Milpitas implemented a telephone system that supported the communications needs of the City through three Private Business Exchanges (PBX's). The City also implemented a voicemail system that worked together with the PBX's. The voicemail system that was chosen was the Octel 250 system. The system included hardware, licensed software and maintenance support provided by Lucent Technologies, the original vendor of the voicemail system. Hardware and software maintenance and support of the system was provided through a series of annual maintenance agreements.

In FY 1999/00 Lucent Technologies changed their company name and became Otel. Annual hardware and software maintenance and support of the system continued to be provided by Otel. Beginning in FY 2004 the maintenance support for the Otel products was shifted to Avaya, Inc. Unfortunately, with this shift came another proposed increase in the annual maintenance costs. Those cost have continued to increase for the past 4 years.

Since the maintenance and support of the voicemail system is a highly specialized field and the maintenance costs have continued to increase, staff conducted a search for a responsive vendor that could meet the needs of the City in a timely fashion and that were competitively priced. The search for a responsive vendor included contacting Avaya, Inc., Professional Convergence Solutions (the City's PBX maintenance vendor) and NetVersant. NetVersant is a highly respected provider of hardware and software maintenance on the type of voicemail system that the City operates. NetVersant has also supported the installation of a wireless communication bridge for the City between the Public Works Building, Crowne Plaza Hotel and the McCarthy Ranch Pump Station.

At this time the annual maintenance agreement requires renewal and staff has requested maintenance quotes from Avaya, Inc., Professional Convergence Solutions (PCS) and NetVersant. The quote for a 3-year hardware and software maintenance and support agreement for the voicemail system from Avaya was \$54,150. PCS advised the City that they would not provide a quote on the maintenance for the voicemail system since they did not have the internal expertise and would have to subcontract out the maintenance. The quote for a 3-year hardware and software maintenance and support agreement for the voicemail system from NetVersant was for an amount not to exceed \$18,000.

Staff is recommending that the City change its annual hardware, software and support services agreement to NetVersant. Funding for the agreement has already been approved in the Information Services operational budget. No additional funding is required for this agreement.

**Recommendation:** Authorize the City Manager to approve a Maintenance Agreement between the City of Milpitas and NetVersant for hardware, software and support services for the City's Otel 250 Voicemail system through April 4, 2008 in an amount not to exceed \$18,000 subject to approval as to form by the City Attorney.

- \* 25. **Authorize City Manager to Execute Agreement: Brian Kangas Foulk Engineers, Midtown North Main Street Improvements Project (Project No. 8165) (Staff Contact: Mark Rogge, 586-3403)**

**Background:** This project is included in the current five-year Capital Improvement Program (CIP). The completed project will consist of public street, driveway and streetscape improvements to existing North Main Street from Weller Lane to Carlo Street, Winsor Street, from Carlo to the northern terminus; and Weller Lane east of Abel, and driveways to the proposed Midtown Parking Garages, approximately 2750 lineal feet of roadway. The streetscape improvements will include all amenities to create a pedestrian-oriented street that supports the Midtown streetscape guidelines and the Midtown Specific Plan for the area. This project also includes the signalization of intersections if warranted by traffic studies.

Brian Kangas Foulk Engineers was selected to design these improvements in conformance with the City's consultant selection process. Staff has negotiated a scope and fee for these services not to exceed \$773,371, which is considered reasonable for the work. This negotiated amount includes \$125,000 in contingency for additional services, and \$28,000 for reimbursables and reproductions. A budget appropriation in the amount

of \$150,000 from RDA Bond Proceeds is proposed to increase the projects current funding, within the cost plan, to cover the costs associated with this agreement.

**Recommendation:**

1. Authorize City Manager to execute an agreement with Brian Kangas Foulk Engineers, for the amount of \$733,371, subject to approval as to form by the City Attorney.
2. Approve budget appropriation Project No. 8165 in the amount of \$150,00 from RDA Bond proceeds.

**\* 26. Award Construction Contract, Utility Relocation Project Weller Lane and Winsor Street, Project No. 8153, Pacific Underground Construction (Staff Contact: Steve Erickson 586-3414)**

**Background:** On January 4, 2005, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project provides for the abandonment and removal of existing utilities and the installation of new utilities to serve the new library and midtown-east parking garage. The work includes pipeline installation, trenching, fencing and the Engineer's estimated construction cost was \$701,870. The bid also included three add alternate bid items to trench and install PG&E & SBC (telephone) conduits needed for the Midtown improvements.

The project was advertised and sealed bid proposals were opened on March 22, 2005. The bid proposals ranged from \$671,164 to \$996,290, and the lowest responsible bidder is Pacific Underground Construction. There are sufficient funds available in the project budget to award this project, including the three add alternate bid items.

**Recommendation:** Award Construction Contract to Pacific Underground Construction in the amount of \$671,164, which includes the base bid and three add alternate bids items.

**\* 27. Approve A Contract For Interim Janitorial Service With Empire Maintenance Service (Staff Contact: Eddie Loreda, 586-2662)**

**Background:** On March 16<sup>th</sup> the City notified our current janitorial service provider Diversified Maintenance Services, Inc. that their contract was being cancelled effective April 15<sup>th</sup>, 2005 due to continued poor quality despite repeated written and verbal warnings to correct the situation. The Facilities Maintenance Division obtained informal bids from the four companies listed below to provide services for ninety (90) days during which time the janitorial specifications will be reviewed and put out for formal bid. The interim contract will cover the period from April 16<sup>th</sup> to July 16<sup>th</sup>.

Significant Cleaning Services	\$47,856.00
Excel Maintenance, Inc.	\$42,000.00
Town & Country	\$41,160.00

Empire Maintenance Service	\$33,840.00
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(There are sufficient funds available in the Facilities maintenance Contract Services budget account PG 9429-4237 for the purchase of this service.)

**Recommendation:** Authorize the City Manager to execute a contract with Empire Maintenance Services to perform interim Janitorial Service for ninety (90) days in an amount not to exceed \$33,840.00 including tax, subject to approval as to form by the City Attorney.

**\* 28. Approval of Agreement with Meyers-Nave to Provide Labor Negotiation Services related to IAFF, MPOA, and Protech Labor Negotiations and**

**Approval of Purchase Order with Meyers Nave (Staff Contact: Richard Pio Roda, 586-3040)**

**Background:** The City is about to commence labor negotiations with IAFF, MPOA and Protech for a new contract commencing July 1, 2005. As proposed in the agreement, Meyers Nave will serve as the City's lead labor negotiator for all three labor contracts for \$70,000, assuming the time spent does not exceed 500 hours. In the event time spent by Meyers Nave working on the negotiations exceeds 500 hours, Meyers Nave would bill hourly at \$195 per hour. The proposal includes conferring with City staff to develop proposals, reviewing existing MOUs to recommend possible reforms, changes or other improvements; drafting and finalizing proposals; reviewing and responding to union proposals and correspondence; travel time; negotiation meetings with the union; attending City Council meetings; preparation of exhibits and materials to be used in executive session; handling routine legal advice issues; attending up to one mediation proceeding; preparing the final contract; and attending impasse resolution hearings before the City Council. Litigation, compensation surveys, legal advice requiring substantial legal research and attending more than one impasse resolution proceeding would be excluded and billed separately. Meyers Nave proposes to assign the following members of its Labor and Employment Law group to this project: Arthur Hartinger, Principal; Eddie Kreisberg, Principal; Dana Zamczyk, Associate; and Melissa Wiens, Paralegal.

**Recommendation:** Approve the agreement with Meyers Nave for labor negotiation services and a purchase order for \$70,000 to Meyers Nave.

**XXII. CLAIMS AND DEMANDS**

**\* 29. Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$5,089.00 to West Coast Fence for emergency fence repair at Dixon Landing Park. On 2/24/05 two cars were drag racing on Milmont Drive, one lost control and jumped the curb into the city park and ran through the fence surrounding the city owned tennis courts causing considerable damage and leaving a hazard of bent poles and exposed edges. (MPD Case # 05-055-171) West Coast Fence was contacted to provide the repairs. The work was performed as an emergency under section I-2-5.04 of the Municipal Code "Emergency Authority of Purchasing Agent." (Funds are available from Parks Operational Services budget for these repairs.)
2. \$2,890.00 to Koffler Electrical Mechanical Apparatus Repair, Inc. for emergency repair of the 30HP Jockey Pump and anti rotation device at McCarthy Pump Station. The Anti rotation device on the 30HP Jockey Pump broke due to high usage. Without it the motor is only able to operate at 40% efficiency. The motor had to be overhauled and the anti rotation device had to be replaced. The work was performed as an emergency under section I-2-5.04 of the Municipal Code "Emergency Authority of Purchasing Agent." (Funds are available from Public Works Utilities Operating Budget for these services.)
3. An amount Not-To-Exceed \$8,000.00 to Peninsula Pump & Equipment for emergency repair of the Flygt Pump at the Milpitas Materials Pump Station. Debris (large rubber hose) from the storm drain system entered the wet well of

the pump damaging the impeller and causing the pump motor to freeze. In addition water was found in the oil. The impeller and all the seals, bearings, and rings had to be replaced. The work was performed as an emergency under section I-2-5.04 of the Municipal Code "Emergency Authority of Purchasing Agent." (Funds are available from Public Works Utilities Operating Budget for these services.)

4. \$29,445.95 to Preston Pipelines, Inc. for emergency replacement of two valves in the Gibraltar Pump Station. One 18" butterfly valve and one 12" butterfly valve used to isolate between delivery zones and pressure zones, respectively, need to be replaced due to corrosion of the iron discs and bodies of the valves. Valves do not seat properly because of corrosion. Complete failure of the valves would expose the low-pressure zone to significantly higher pressures resulting in certain system failures and likely property damage. Replacing both iron valves with stainless steel valves will eliminate the corrosion problem. The work was performed as an emergency under section I-2-5.04 of the Municipal Code "Emergency Authority of Purchasing Agent." (Funds are available from Public Works Utilities Operating Budget for these services.)
5. \$28,520.72 to JWC Environmental for the repair and upgrade of the GTS Grinder at the Main Sewage Lift Station. The current unit suffered a catastrophic failure after a little more than a year of service due to the large amount of non-organic debris in the sewage. In order to extend the service life of the unit, an upgrade to a more heavy-duty construction with 11 cam cutters and a coil drum separator is required. This is a critical piece of equipment necessary for the daily processing of sewage. Currently the City is operating on one back up unit. The work is therefore being performed as an emergency under section I-2-5.04 of the Municipal Code "Emergency Authority of Purchasing Agent." (Funds are available from Public Works Utilities Operating Budget for these services.)
6. \$35,722.50 to National Meter and Automation, Inc. for the purchase of 407 Badger water meters. Six years ago the City went out to bid for water meters and Badger was the only company that could meet our specification for quality, service, and anti-tampering prevention. Badger has been the City's standard brand of choice since then. National Meter and Automation, Inc. is the sole authorized distributor of Badger meters for California. Staff is requesting that the equipment be purchased as a sole source procurement as sanctioned in section I-2-5.03-4 of the Milpitas Municipal Code. (Funds are available from Public Works Utilities Capital Outlay Budget for this purchase.)
7. \$8,000.00 to American Baseline Company, land surveying, for the recordation and conveyance of a permanent underground sanitary sewer easement at the San Jose Water Pollution Control Plant. On May 16, 2000 the City of Milpitas began construction of the Parallel Force Main Project, Project No. 6078. The Agreement with the City of San Jose required that upon completion, a permanent easement be recorded for an underground sanitary sewer at the San Jose Water Pollution Control Plant. American Baseline Company has submitted a quote for \$8,000.00 to record and convey the permanent underground easement, (funds are available from the Parallel Force Main Project purchase).

**Recommendation:** Approve the purchase requests.

- \* 30. **Authorize the Purchase of Tropos Wireless Network Equipment (Staff Contact: Bill Marion, 586-2701)**

**Background:** On October 21, 2003, the City Council authorized the purchase of \$23,850.00 worth of equipment from Tropos Networks to expand the City's existing wireless network while significantly reducing our dependency on commercial carriers. The wireless network is essential to the operation of the City's Computer Aided Dispatch system, currently installed in all Police and Fire vehicles. On 2/3/04 the City Council accepted a grant, equivalent to \$85,642.00 worth of Tropos Networks equipment and services to again expand our wireless network in exchange for acting as a "case study" and reference for other agencies interested in wireless network technology. The current purchase will complete the build out of our system. Staff is requesting that the equipment be purchased as a sole source procurement as sanctioned in section I-2-5.03-4 of the Milpitas Municipal Code.

**Recommendation:** Approve the purchase of Tropos Wireless Network equipment as per attached quote #SQ Milpitas 031420052 to Tropos Networks for \$31,229.47.

**XXIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, APRIL 19, 2005, AT 7:00 P.M.**